IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL WRIT PETITION NO. 1087 OF 2007**

Jetu Jacques Taru Lalvani ... Petitioner
(Orig. Accused)

Versus

State of Maharashtra & Anr. ... Respondents

Mr. N.K.Mudnaney Advocate for the petitioner.
Mrs. V.R.Bhosale, APP, for the State.

**CORAM: J.H.BHATIA,J.**
**DATE: 19th June, 2007.**

**P.C.**

1. Heard Mr. Mudnaney, learned Counsel for the petitioner.

2. It is the case of the petitiooner that on 10.1.2006, a complaint was lodged by the Joint Director, Industrial Safety and Health, Thane, against the present petitiooner on the ground that he is the occupier of

M/s. Tellabs Chemicals Pvt.Ltd., a factory registered under the Factories Act and during his visit on 13/10-9-2005, breach of certain provisions of the Rules were found. Process was issued against the present petitioner by the C.J.M., Thane. The petitioner seeks to quash the process against him mainly on two grounds. Firstly, he was not the occupier. According to him, one Rajesh Saigal was notified to be the occupier of the factory and therefore, the petitioner could not be prosecuted in view of Sections 2 and 7 of the Factories Act. He further contends that the complaint was time-barred as it was filed more than three months after the incident.

3. On 2nd point, from the notice issued by the Deputy Director,Industrial Safety and Health, to the petitoiner on 28.11.2005, it is clear that he had paid the visit tothe factory on 13.10.2005. The complaint was filed on 10.1.2006 i.e. within three months. It appears that in the complaint, the date is mentioned as "13/10-9-2005". It clearly appears to be a typing mistake in the date in the complaint. That is the question of fact which can be looked at the time of trial.

4. On the main contention of the petitioner that one Mr. Rajesh Saigal was the notified occupier, the

learned Counsel has shown me the notice sent by Tellabs Chemicals Pvt.Ltd. to the Joint Director, Industrial Safety & Health,on 19.12.2005 notifying, in Form No.2 that Rajesh Saigal would be the occupier of the factory. Rajesh Saigal was notified as occupier of the factory under Sectioon 7 on 19th December, 2005 while the prosecution case is based on the breach of certain rules on 13.10.2005. At that time, Rajesh Saigal was not the occupier. There is nothing on record to show that the present petitioner was not occupier on the relevant date.

5. In view of the above, there is no substance in the Petition and the Petition stands dismissed summarily.

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**(J.H.BHATIA,J.)**